

A.G. Contract No. KR03-1596TRN
ECS File: JPA 03-026
TRACS: N/A
Project: Oro Valley- Traffic Signal
Intersection of Tangerine Rd
& First Avenue MP 34.44

**INTERGOVERNMENTAL
AGREEMENT**

BETWEEN
THE STATE OF ARIZONA
AND
THE TOWN OF ORO VALLEY

THIS AGREEMENT is entered into 9th January, 2004 pursuant to Arizona Revised Statutes, Sections 11-951 through 11-954, as amended, between the STATE OF ARIZONA, acting by and through its DEPARTMENT OF TRANSPORTATION (the "State") and the TOWN OF ORO VALLEY acting by and through its Mayor and Town Council (the "Town").

I. RECITALS

1. The State is empowered by Arizona Revised Statutes Section 28-401 to enter into this agreement and has delegated to the undersigned the authority to execute this agreement on behalf of the State.

2. The Town is empowered by Arizona Revised Statutes Section 9-240, to enter into this agreement and has by resolution, a copy of which is attached hereto and made a part hereof, resolved to enter into this agreement and has authorized the undersigned to execute this agreement on behalf of the Town.

3. Incident to reconstruction improvements on a section of SR 989, (Tangerine Road) in Oro Valley, it is the intent of the State and the Town to participate in the design, construction, and maintenance of a new warranted traffic signal at the intersection of Tangerine Road and First Avenue MP 34.44, hereinafter referred to as the "Project". The Town will be responsible for 100% of the costs of the Project. The parties agree that the Town will design, construct and provide proper maintenance and operational responsibilities for the Project.

THEREFORE, in consideration of the mutual agreements expressed herein, it is agreed as follows:

NO. 26514
Filed with the Secretary of State
Date Filed: 01/09/2004

Janice K. Brewer
Secretary of State

By: Henry Groenewold

II. SCOPE OF WORK

1. The Town will:
 - a. Be responsible for 100% of the cost for the Project.
 - b. Apply for encroachment permits from the State, necessary for the construction of the Project.
 - c. Coordinate with the State during the design and construction stage, call for bids and award one or more construction contracts for the Project. Administer contracts and make all payments to the contractor(s).
 - d. Upon completion of the Project and acceptance of the traffic signal, provide maintenance to the signal and ancillary equipment; and provide response associated with emergency maintenance within 30 minutes of notification.
 - e. Upon completion of the Project provide electrical power to operate the traffic signal all at the Town's expense.
 - f. Conduct all maintenance work in a manner to minimize traffic congestion and interference with through traffic. All traffic control will meet the requirements of the Arizona Department of Transportation's "Uniform Traffic Control Manual"

2. The State will:

- a. Grant the necessary temporary encroachment permits, for construction of the Project and rights of entry for maintenance of the traffic signal on Tangerine Road and First Avenue MP 34.44.

MISCELLANEOUS PROVISIONS

1. The terms, conditions and provisions of this agreement shall remain in full force and effect until completion of said Project, except any provisions for maintenance and electrical energy shall be perpetual, unless assumed by another competent governmental entity. Further this agreement may be cancelled at any time prior to the award of the Project construction contract, upon thirty (30) days written notice to the other party. It is understood and agreed that, in the event the Town terminates this agreement the State shall in no way be obligated to maintain said Project.
2. This agreement shall become effective upon filing with the Secretary of State.
3. This agreement may be cancelled in accordance with Arizona Revised Statutes Section 38-511.
4. The provisions of Arizona Revised Statutes Section 35-214 are applicable to this contract.
5. In the event of any controversy which may arise out of this agreement, the parties hereto agree to abide by required arbitration as is set forth for public works contracts in Arizona Revised Statutes Section 12-1518 (B) and (C).
6. All notices or demands upon any party to this agreement shall be in writing and shall be delivered in person or sent by mail addressed as follows.

Arizona Department of Transportation
Joint Project Administration
205 South 17 Avenue, Mail Drop 616E
Phoenix, AZ 85007
FAX: (602)-712-7424

Town of Oro Valley
Town Manager
11000 N. La Canada Drive
Oro Valley, AZ 85737


7. This agreement is subject to all applicable provisions of the Americans with Disabilities Act (Public Law 101-336, 42 U.S.C. 12101-12213) and all applicable federal regulations under the Act, including 28 CFR Parts 35 and 36. The parties to this agreement shall comply with Executive Order Number 99-4 issued by the Governor of the State of Arizona and incorporated herein by reference regarding "Non-Discrimination".

8. Non-Availability of Funds: Every payment obligation of the State under this contract is conditioned upon the availability of funds appropriated or allocated for the payment of such obligation. If funds are not allocated and available for the continuance of this contract, this contract may be terminated by the State at the end of the period for which the funds are available. No liability shall accrue to the State in the event this provision is exercised, and the State shall not be obligated or liable for any future payments or for any damages as a result of termination under this paragraph.

9. In accordance with Arizona Revised Statutes Section 11-952, D, attached hereto and incorporated herein is the written determination of each party's legal counsel that the parties are authorized under the laws of this State to enter into this agreement and that the agreement is in proper form.

TOWN OF ORO VALLEY**STATE OF ARIZONA**

Department of Transportation

By  12/4/03
PAUL LOOMIS
Mayor

By  12-23-03
DOUGLAS A. FORSTIE, P.E.
Acting Deputy State Engineer, Operations

ATTEST

By 
KATHRYN CUEVELIER
Town Clerk

RESOLUTION NO. (R) 03- 110

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE TOWN OF ORO VALLEY, ARIZONA AUTHORIZING AND APPROVING THE EXECUTION OF AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE TOWN OF ORO VALLEY AND THE STATE OF ARIZONA, DEPARTMENT OF TRANSPORTATION, FOR MAINTENANCE AND OPERATIONAL RESPONSIBILITY FOR THE TRAFFIC SIGNAL AT THE FIRST AVENUE AND TANGERINE ROAD INTERSECTION

WHEREAS, the Town of Oro Valley is a municipal corporation within the State of Arizona, and pursuant to the laws of the State of Arizona, the Town Council is authorized to enter into Intergovernmental Agreements; and

WHEREAS, the maintenance and operational responsibility of the signal at the First Avenue and Tangerine Road intersection is necessary for the public's health, safety and welfare in order to provide for the safe and efficient movement of traffic and to preserve Town assets; and

WHEREAS, incident to reconstruction improvements at First Avenue and Tangerine Road, it is the intent of the Town of Oro Valley and the State of Arizona, Department of Transportation, to participate in the design, construction and maintenance of a new traffic signal at this intersection; and

WHEREAS, pursuant to Arizona Revised Statutes, Section 9-240, the Town Council is empowered to enter into this Intergovernmental Agreement; and

WHEREAS, it has been determined that it is in the best interest of the Town to enter into this Intergovernmental Agreement (attached hereto) with the State of Arizona, Department of Transportation, and that Mayor and Council of the Town of Oro Valley authorize and approve the Intergovernmental Agreement.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Town of Oro Valley, Arizona, that the Intergovernmental Agreement (attached hereto) between the Town of Oro Valley, Arizona and the State of Arizona, Department of Transportation, is authorized to be signed.

BE IT FURTHER RESOLVED that the Mayor and any other administrative officials of the Town of Oro Valley are hereby authorized to take such steps as are necessary to execute and implement the terms of the Intergovernmental Agreement.

PASSED AND ADOPTED by the Mayor and Town Council of the Town of Oro Valley,
Arizona this

3RD day of DECEMBER, 2003.

TOWN OF ORO VALLEY



Paul H. Loomis, Mayor

ATTEST:



Kathryn Cuvelier, Town Clerk

APPROVED AS TO FORM:

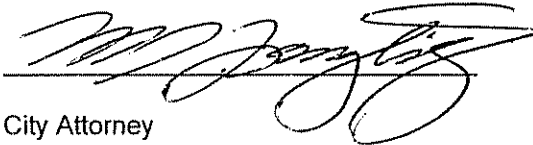


Mark J. Langlitz, Town Attorney

APPROVAL OF THE TOWN ORO VALLEY ATTORNEY

I have reviewed the above referenced intergovernmental agreement between the DEPARTMENT OF TRANSPORTATION, INTERMODAL TRANSPORTATION DIVISION, and the TOWN OF ORO VALLEY, an agreement among public agencies which, has been reviewed pursuant to A.R.S. section 11-951 through 11-954 and declare this agreement to be in proper form and within the powers and authority granted to the Town under the laws of the State of Arizona. No opinion is expressed as to the authority of the State to enter into this agreement.

DATED this 20th day of November, 2003.


City Attorney



OFFICE OF THE ATTORNEY GENERAL
STATE OF ARIZONA

CIVIL DIVISION
TRANSPORTATION SECTION
WRITER'S DIRECT LINE 602.542.8855

TERRY GODDARD
ATTORNEY GENERAL

INTERGOVERNMENTAL AGREEMENT
DETERMINATION

A.G. Contract No. KR03-1596TRN (**JPA 03-026**), an Agreement between public agencies, has been reviewed pursuant to A.R.S. § 11-952, as amended, by the Undersigned Assistant Attorney General who has determined that it is in the proper form and is within the powers and authority granted to the State of Arizona.

No opinion is expressed as to the authority of the remaining Parties, other than the State or its agencies, to enter into said Agreement.

DATED 1-6, 2004.

TERRY GODDARD
Attorney General

A handwritten signature in cursive script, reading "Susan E. Davis", written over a horizontal line.

SUSAN E. DAVIS
Assistant Attorney General
Transportation Section

SED:dgr
Attachment
824381